

Freudenthal; that the nomination be confirmed, and the motion to reconsider be laid upon the table; that any statements relating to the nomination be printed in the RECORD; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, for the same reasons as noted earlier, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WHITEHOUSE. Mr. President, I call up Executive Calendar No. 702, the nomination of Judge D. Price Marshall to serve on the U.S. District Court for the Eastern District of Arkansas, a district court nominee who has been held up and filibustered. This district court nominee, Judge Marshall, is currently a judge on the Court of Appeals for the State of Arkansas. He spent 15 years in private practice in Jonesboro, AR. He served as a law clerk to Seventh Circuit Judge Richard S. Arnold. Judge Marshall was reported out of the Judiciary Committee on February 11, 2010, by voice vote and without dissent. He has been held and blockaded on this floor.

I ask unanimous consent that the Senate proceed to executive session, and notwithstanding rule XXII, the Senate proceed to Executive Calendar No. 702; that the nomination be confirmed, and the motion to reconsider be laid upon the table; that any statements relating to the nomination be printed in the RECORD; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WHITEHOUSE. Mr. President, let's try another one.

I call up Executive Calendar No. 704. This is the nomination of Judge Timothy Black, again, a district court nominee, a local trial court nominee, to serve on the U.S. district Court for the Southern District of Ohio. Judge Black has served the Southern District of Ohio for 6 years as a Federal magistrate judge. He is currently a Federal magistrate judge in the court for which he is nominated as a district judge. Before that, he spent a decade as a municipal court judge and had a long career as a civil litigator. He was reported out of the Judiciary Committee without dissent after a voice vote on February 11 of this year. February, March, April—more than 2 months ago. He has languished on the Senate floor after clearing the committee without dissent—a judge, a district judge, a trial judge who serves now as the magistrate judge.

I ask unanimous consent that the Senate proceed to executive session, and notwithstanding rule XXII, the Senate proceed to Executive Calendar No. 704, the nomination of Judge Timothy Black; that the nomination be

confirmed, and the motion to reconsider be laid upon the table; that any statements relating to the nomination be printed in the RECORD; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, for the same reasons stated before, I object.

The PRESIDING OFFICER. Objection is heard.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF LAEL BRAINARD TO BE AN UNDER SECRETARY OF THE TREASURY

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Lael Brainard, of the District of Columbia, to be an Under Secretary of the Treasury.

The PRESIDING OFFICER. Under the previous order, the time until 12 noon will be equally divided and controlled between the Senator from Montana, Mr. BAUCUS, and the Senator from Iowa, Mr. GRASSLEY, with the Senator from Kentucky, Mr. BUNNING, controlling 15 minutes of the time controlled by the Senator from Iowa, Mr. GRASSLEY.

The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I probably will not take the 15 minutes but somewhere between 10 and 15 minutes.

I rise in strong opposition to the nomination of Lael Brainard to be Under Secretary of the Treasury for International Affairs.

I do not think it is unreasonable for the American people to expect nominees to important posts in the Treasury Department to have a clean record in the payment of their taxes. After all, Treasury is responsible for collecting taxes. Treasury nominees have a special responsibility to live up to the same high standards the Department demands from ordinary citizens. But the American people deserve much more than just someone with a clean tax record. They deserve a nominee who is honest, trustworthy, and straightforward.

The Finance Committee's bipartisan investigation of Ms. Brainard revealed she does not have a clean tax record. At worst, she refuses to be straightforward and honest about her tax records.

The Finance Committee looks into the tax record of every nominee who comes before the committee. A routine

examination of Ms. Brainard's past few tax returns revealed many problems. When asked if she has paid all her taxes on time, she did not reveal several cases in which she had failed to pay her taxes on time.

When she was asked, on her nomination questionnaire, if she was current with all her taxes at the time she was nominated, she replied yes. But, in fact, that was not true. She was well overdue on paying county property taxes and DC employment insurance taxes at the time.

There were also several problems with the forms she was supposed to file to prove that her household employee was legally able to work in this country. On one form, there was a serious problem with a space that the household employee is required to sign. It appears Ms. Brainard filled in that space with her own signature, and she could not provide an explanation of why she did so.

On another form, dates appear to have been written over to change the year. She could provide no explanation of why this was done.

On two different forms, Ms. Brainard missed the deadline for completing the employer portion of the form. On another form, the employer portion was filled in 1 month before the employee portion, but the law requires the employee portion to be filled in first.

On yet another form, the employee certification section lists her husband's name, but the signature is hers.

On another form, the employee section is filled in, but the required employer certification section was left blank.

There was another problem of the home office deduction which she claimed in the past several years. She could not provide a clear and consistent reason for taking a home office deduction of one-sixth of her household expenses. She was unable to provide a credible reason for the size of the deduction. She reduced her home office deduction to one-twelfth of household expenses on her 2008 tax return. However, she did not reduce the deduction on her 2005, 2006 or 2007 tax return, all of which had the inflated deduction.

Some Senators might come to the conclusion that these tax problems alone should not disqualify the nominee. They may say that, at worst, this is simply a pattern of sloppiness. Do we want someone who is so sloppy in her tax responsibilities to be in charge of international affairs at the Treasury Department?

But this is not just a matter of sloppiness. This is a matter of total lack of candor with the Finance Committee and, by extension, with the Senate and, by extension, with the American people.

Ms. Brainard spent 9 months stonewalling the Finance Committee over all these tax issues. She gave evasive and incomplete answers to the staff of the committee. The level of evasiveness of this nominee appears to